

No. 21-315

Supreme Court, U.S.
FILED

AUG 26 2021

OFFICE OF THE CLERK

In the

Supreme Court of the United States

JACQUELYN BOUAZIZI,

Petitioner,

v.

HILLSBOROUGH COUNTY CIVIL SERVICE BOARD, and

HILLSBOROUGH COUNTY

Respondents.

On Petition for a Writ of Certiorari To
The United States Court of Appeals
For the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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Dated: August 26, 2021

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SUPREME COURT, U.S.

QUESTIONS PRESENTED

1. Should the Doctrine of Equitable Tolling be expanded to include a situation in which a pro se party previously represented by counsels, having received substandard legal advice and representation, relying solely on the notion that the hired counsels were competent and can therefore move client's cause of action involving employment discrimination litigation on the basis of gender, age, retaliation, equal pay, FMLA claim, and race (against Respondents Hillsborough County and the County Civil Service Board) believing on the representation of previous counsels that after filing the Original Complaint, **Exhibit 4**, Amended Complaint, **Exhibit 5**, Second Amended Complaint, **Exhibit 5-A**, Third Amended Complaint, **Exhibit 5-B**; hiring two attorneys who have been practicing labor law and representing to the Petitioner that this is their profession. Petitioner's lawyers Craig Berman, Erik Del E'toile, and Carl R. Hayes enormously failed by failing to comprehend all that is needed in a discrimination case, whose actions were convoluted and confusing to Judge Robert Foster and Judge Virginia Hernandez Covington which resulted to both Judges' failure to verify that Petitioner filed a FMLA Claim as opposed to the alleged Disability Claim of the Petitioner which the latter did not have.
2. Does failure of attorneys to include in the complaints what needed to be included at the time it should have been, constitutes negligence entitling Petitioner to avail of the application of the Doctrine of Equitable Tolling? Out of filing five complaints and hiring three attorneys, yet Petitioner's attorneys failed to include what needed to be included at the time it should have been included by failing to satisfactorily plead Petitioner's cause of action. Petitioner's attorney's failed to present valid claims, failed to include Equal Pay claim and only included the same after the lapse of its statute of limitations, failed to adduce a *prima facie* claim, failed to allege how the law applies to the facts, failed to state a cause of action, failed to include comparison with the comparators. Craig Berman filed the original complaint on November 18, 2015 where he failed to amend the complaint as per Judge Robert Foster's order on two occasions, while attorney Erik Del E'toile filed the two Amended Complaint on January 18, 2018 and Carl R. Hayes filed the Second Amended Complaint on February 19, 2019 as well as the Third Amended Complaint May 9, 2019.
3. Should a pro se litigant be penalized for the misrepresentation, fraud, and incompetence manifested by her previously hired attorneys, with the fraud committed by Attorneys Todd and Zinober by adding a disability to Petitioner's EEOC charge to later get Petitioner's complaints against Respondents Board and County be dismissed with prejudice based on a fraudulent disability claim that they added to Petitioner EEOC charge 511-2014-01711.

4. Is the denial of a long-term competent employee of a well-deserved promotion in favor of one who is relatively new and/or less qualified, following employee's several EEOC complaints, be considered as discriminatory and retaliatory on the part of the employer and whether the court erred in ruling otherwise, having in regard the manifestation of the Civil Service Board that the individual promoted is not or just not qualified. The Civil Service Office Manager, Britanny Abella's memo states that first Damian Tramel was not qualified for the position, he was allowed to remain on the payroll in the same position and hired him permanent, **Exhibit 7**, not having in regard that he has a felony charge **Exhibit 6-A**, Doc. 1-2 page 131 to 132, thereby violating the Civil Service Rule. Tramel lied on Hillsborough County Civil Service Board Application For Employment page 2, **Exhibit 6**, when he Tramel checked "No", on the question "Have you ever pled guilty, been convicted of OR, pled nolo contendens to any crime, **Exhibit 6**. Tramel was even promoted as Petitioner's supervisor and Clifford Amunsden named in the Third Amended Complaint **Exhibit 5-B**, admitted that he did not manage contracts, in a memo from Camille Blake, the County's Equal Employment Opportunity Manager, Equal Opportunity Administrator's Office, **Exhibit 8**. The County refused to pay the Petitioner **contract manager's** pay while several inexperienced employees were promoted over Petitioner to AO pay grade, 6 pay grades above Petitioner AK pay grade for managing contracts, **Exhibit 8-A**.

ii.

LIST OF PARTIES

The parties are listed in the caption. There are no additional parties joined in this action.

TABLE OF AUTHORITIES

1. Hazel-Atlas Glass Co. v. Hatford-Empire Col., 433 U.S. 238, 248, 64 S.Ct. 997, 88 L.Ed. 1250
2. Holland v. Florida, 560 U.S. 631, 130 S.Ct. 2549, 177 L.Ed.2d 130 (2010).
3. Arias v. U.S. Att'y Gen., 482 F.3d 1281, 1284 (11th Cir. 2007)
4. Jaen-Chavez v. U.S. Attorney General, 415 F. App'x 964, 967 (11th Cir. 2011)
5. United States v. James Daniel Good Real Property, 510 U.S. 43, 48 (1993)
6. Greenholtz v. Nebraska Penal Inmates, 442 U.S. 1, 12 (1979)
7. Mathews v. Eldridge, 424 U.S. at 324
8. Cafeteria Workers v. McElroy, 367 U.S. 886, 895 (1961)
9. Mathews v. Eldridge, *supra*, at 343
10. E. G., Ingraham v. Wright, 430 U.S. 651 (1977)
11. Santosky v. Kramer, 455 U.S. 745, 774-76 (1982).
12. McDonald v. Smith, 472 U.S. 479, 482-83 (1985)
13. Pace vs. DiGuglielmo, 544 U.S. 408, 418, 125 S.Ct. 1807, 171 L.Ed.2d 669
14. Battett v. Bullitt, 377 U.S. 360, 375, 85 S.Ct. 1316, 12 L.Ed.2d 377
15. Holmberg v. Armbrecht, 327 U.S. 392, 396, 66 S.Ct. 582, 90 L.Ed. 743

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CONSTITUTIONAL AND STATUTORY PROVISIONS

28 U.S.C. § 1257. (a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

(b) For the purposes of this section, the term "highest court of a State" includes the District of Columbia Court of Appeals.

42 U.S.C. § 1983. Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

Amendment I. Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment V. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of

life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Rule 13.1 U.S. Supreme Court

Unless otherwise provided by law, a petition for a writ of certiorari to review a judgment in any case, civil or criminal, entered by a state court of last resort or a United States court of appeals (including the United States Court of Appeals for the Armed Forces) is timely when it is filed with the Clerk of this Court within 90 days after entry of the judgment. A petition for a writ of certiorari seeking review of a judgment of a lower state court that is subject to discretionary review by the state court of last resort is timely when it is filed with the Clerk within 90 days after entry of the order denying discretionary review.

Rule 13.3 U.S. Supreme Court

The time to file a petition for a writ of certiorari runs from the date of entry of the judgment or order sought to be reviewed, and not from the issuance date of the mandate (or its equivalent under local practice). But if a petition for rehearing is timely filed in the lower court by any party, or if the lower court appropriately entertains an untimely petition for rehearing or sua sponte considers rehearing, the time to file the petition for a writ of certiorari for all parties (whether or not they requested rehearing or joined in the petition for rehearing) runs from the date of the denial of rehearing or, if rehearing is granted, the subsequent entry of judgment.

APPENDIX

- I. Order of the United States Court of Appeals for the Eleventh Circuit
Entered January 29, 2021, D.C. Docket No. 8:19-cv-00657-VMC-TGW
by Judges JORDAN, NEWSOM, AND GRANT.....**Exhibit 1**
- II. Orders of the United States District Court for the Middle District of Florida by Judge Covington, Doc. 43, Doc. 50, Doc. 68, Doc. 69, Doc. 71, and Doc. 82**Exhibit 2**
- III. Order of the State Court Submitted by Peter Zinober.....**Exhibit 3**
- IV. Attorney Craig Berman Prepared Complaint and Demand for Jury Trial.....**Exhibit 4**
- V. Attorney Del E'toile filed two Amended Complaints, December 15, 2017, Doc. 1-2, page 38 to page 44, page ID48 with the Second Amended Complaint filed January 3, 2018, Doc. 1-2, page 45 to 51, page ID 55 to 61, **Exhibit 5**. Attorney Carl Hayes Second Amended Complaint, **Exhibit 5-A** and Third Amended Complaint...**Exhibit 5-B**
- VI. Damien Tramel lied on Hillsborough County Civil Service Board Application for Employment page 2, when Tramel checked “No”, on the question “Have you ever pled guilty, been convicted of OR, pled nolo contendens to any crime? **Exhibit 6**, Felony Charge.....**Exhibit 6-A**
- VII. Memorandum stating that Mr. Tramel is not qualified for the position from the Civil Service Board.....**Exhibit 7**
- VIII. Memo from Camille Blake.....see Exhibit 22.....**Exhibit 8**
County's refusal to pay Petitioner while several inexperienced employees were promoted to AO pay grade, 6 pay grades above Petitioner AK pay grade for managing contracts.....**Exhibit 8-A**
- IX. Petitioner EEOC Charge 511-2014-01711.....**Exhibit 9**
- X. Defendant Hillsborough County's Motion For Partial Summary Judgment And Motion To Set Case For Trial On The Remaining Issues Doc. 1-2, page 77 to 84, page ID 87 to 94.....**Exhibit 10**

XI. Defendant Hillsborough County Civil Service Board's Motion To Dismiss The Amended Complaint And Accompanying Memorandum Of Law, Doc. 1-2, page 61 to 70, page ID 71 to 80.....Exhibit 11

XII. Transcript of the July 23, 2018 Hearing.....Exhibit 12

XIII. Emails from Del E'toile stating that he will argue Hammer v. Hillsborough County at the July 23, 2018 hearing, that the County and the Board are different entities.....Exhibit 13

XIV. Petitioner's Motion For Extension Of Time to request Transcript Doc. 44.....Exhibit 14

XV. Petitioner Brief.....Exhibit 15

XVI. Petitioner Petition for Rehearing.....Exhibit 16

XVII. Emails from Attorney Craig Berman.....Exhibit 17

XVIII. Hammer v. Hillsborough County, 927 F. Supp. 1540 (M.D. Fla. 1996) Doc. 1-2, page 116 to 123, Page ID 126 to 133.....Exhibit 18

XIX. Email correspondence between Petitioner and Mr. Carl R. HayesExhibit 19

XX. Copy of the Altered Motion to Amend Notice of Appeal February 4, 2020Exhibit 20

XXI. Petitioner Stamped Notice of Appeal dated February 3, 2020, Doc. 83Exhibit 21

Petitioner receipt paid February 3, 2020, filing fee for Notice of Appeal dated February 3, 2020, in the amount of \$505.00 that Middle District Court alleged Petitioner did not pay.....Exhibit 21-A

Petitioner Credit Card statement filing fee paid in the amount of \$505.00 to FLMDC transaction February 3, 2020.....Exhibit 21-B

XXII. Emails from Attorney Antonio Poulos.....Exhibit 22

XXIII. Petitioner noticed pertinent information on Middle District Court documents transmitted to Appeals Court Doc. 84, pages 1 of 32, page ID 1140 to 1171.....**Exhibit 23**

XXIV. On page 32, page ID 1171, of the docket sheets, **Exhibit 23**, show that Petitioner filed her Notice of Appeal February 3, 2020 as Doc. 83, fee not paid, see **Exhibits 21-A and 21B**.....**Exhibit 24**

XXV. On pages 2 and 3, page ID 1141 and 1142, of Doc. 84, transmitted to Appeals Court, it shows Petitioner Notice Of Appeal at the top filed February 4, 2020, as Doc. 84, with the same date stamp as the Notice of Appeal Petitioner filed February 3, 2020, and the Certificate of Service is dated February 3, 2020.....**Exhibit 25**

XXVI. On the Middle District Court Docket Sheet (2) printed from PACER at different times it show a Notice of Appeal as Doc. 85, on page 5/5, was filed February 4, 2020.....**Exhibit 26**

XXVII. On the Middle District Court Docket Sheet (3) printed from PACER at different times it show an Amended Notice Of Appeal filed February 4, 2020, as Doc. 85.....**Exhibit 27**

XXVIII. Docket Sheet for the Eleventh Circuit Court of Appeals...**Exhibit 28**

XXIX. Equal Employment Opportunity Commission EEOC – Complaint Processing Procedure.....**Exhibit 29**

XXX. Fraudulent – Order Granting Hillsborough County Civil Service Board’s Motion to Dismiss the Amended Complaint with Prejudice.....**Exhibit 30**

XXXI. Rule 60(b).....**Exhibit 31**

XXXII. CIP Petitioner filed February 18, 2020.....**Exhibit 32**

XXXIII. CIP which someone altered and wrote on the letter (mailed February 24, 2020), and mailed the exact CIP to the 11th Circuit Court that Petitioner filed February 18, 2020, that the 11th Circuit Court alleged there was a deficiency on the date February 19, 2020, on 11th Circuit Court Docket Sheet **Exhibit 42**. Petitioner did not receive a letter from the court dated February 19, 2020, alleging that there was a deficiency in the CIP filed February 18, 2020.....**Exhibit 33**

XXXIV. Letter dated February 11, 2021, from the Eleventh Circuit Court of Appeals granting Petitioner an extension until March 19, 2021 to mail her Petition for Rehearing.....**Exhibit 34**

XXXV. Motion To Review Court File and Motion For Leave To File An Amended Petition.....**Exhibit 35**

XXXVI. Date stamped Notice Of Appeal **Exhibit 36** mailed March 19, 2021, priority mail receipt **Exhibit 36-A** that the Appeals court stated "No Action Taken" in their letter March 25, 2021.....**Exhibit 36-B**
Petitioner's Amended Petition For Rehearing.....**Exhibit 36-C**

XXXVII. Motion for Relief from Judgment under Rule 60, Doc. 81..**Exhibit 37**

XXXVIII. Copy of the envelope the 11th circuit court questioned in its decision 1/29/21, **Exhibit 38** in reference to the date in which Order Doc. 69 was signed, **Exhibit 1**, when Petitioner filed her Notice of Appeal**Exhibit 21**

XXXIX. Gretchen Lehman resubmitted the fraudulent - Order Granting Hillsborough County Civil Service Board's Motion to Dismiss the Amended Complaint with Prejudice.....**Exhibit 39**

XXXX. Family Medical Leave Act FMLA.....**Exhibit 40**

XLI. Correspondence dated April 9, 2021.....**Exhibit 41**

XLII. Correspondence dated April 8, 2021.....**Exhibit 42**

XLIII. Correspondence received from the Court dated April 19, 2021, stating a copy of the Judgment is hereby issued as a mandate of the Court. The Court's Opinion was previously provided on the date of issuance.....**Exhibit 43**

XLIV. Correspondence received from the Court dated May 5, 2021, stating that the case is closed.....**Exhibit 44**

OPINION BELOW

On January 29, 2021, the Court of Appeals affirmed the ruling against Petitioner Bouazizi issued by Judge Virginia Covington of the U.S. District Court Middle District of Florida regarding Petitioner's Section 1983 Equal Pay Act and Title VII claims against Respondents Hillsborough County and Civil Service Board. The Court rejected Petitioner's contention that the "Doctrine of Equitable Tolling" be made applicable allowing her claims to proceed since Petitioner obtained incompetent legal service, misrepresentation, and fraudulent machinations from counsel. Equitable tolling focuses on Petitioners' excusable ignorance regarding limitations period and the lack of prejudice to Respondents. Petitioner acted with reasonably prudent regard for his/her rights and serves to ameliorate harsh results that sometimes flow from a strict, literal construction and application of time limits contained in statutes and rules." The Court denied Petitioner's contention that her legal actions were based on her reliance on her attorneys' competence and cannot be expected as a lay person, to understand Rules of Procedure involved in bringing a claim forward, resulting in the deprivation of the benefits due to Petitioner who suffered gender, age, race, retaliation, equal pay and FMLA claim discrimination. This practice should not be countenanced especially when Respondents are the County and the Board to which candor and fairness is expected.

Petitioner learned that disability claim was added to her EEOC charge by opposing attorneys Stephen Todd and Peter Zinober in agreement with Petitioner's attorney Erik Del E'toile without her, nor the EEOC representative's permission. Petitioner was unaware of its impermissibility and that only Petitioner can make changes by amending her EEOC charge 511-2014-01711, **Exhibit 9**, Doc. 1-2, page 75 to 76, page ID 85 to 86, or by filing a new complaint before conclusion/dismissal in November 19, 2014.

STATEMENT OF JURISDICTION

The Eleventh Circuit Court of Appeals affirmed the rulings of the U.S. District Court on January 29, 2021 dismissing Petitioner's Section 1983 Equal Pay Act and Title VII claims. The Court rejected the "Doctrine of Equitable Tolling" to be made applicable allowing Petitioner's discrimination claim based on gender, age, race, retaliation and deprivation of equal pay to proceed amounting to denial of benefits under the FMLA. Petitioner invokes this Court's jurisdiction under 28 U.S.C. § 1257, for having timely filed this petition for a writ of certiorari within 150 days of the Court of Appeals judgement, denial of discretionary review or order denying a timely petition for rehearing which on this case is the 9th of April 2021, pursuant to ORDER LIST: 589 U.S. of the U.S. Supreme Court, see Rules 13.1 and 13.3.

PETITION FOR A WRIT OF CERTIORARI

Petitioner Jacquelyn Bouazizi in her action against Hillsborough County and Hillsborough County Civil Service Board, respectfully petitions this court for a grant of a Writ of Certiorari to review the judgement of the Eleventh Circuit Court of Appeals.

STATEMENT OF THE CASE

This Petition arises from the January 29, 2021 Order of the Eleventh Circuit Court (“Court of Appeals”), **Exhibit 1**, not recommended for publication. Petitioner’s appeal was based on whether the State Court erred in dismissing Petitioner’s Section 1983 Equal Pay Act and Title VII claims for being time-barred and failure to exhaust administrative remedies. It involves the question of whether the “Doctrine of Equitable Tolling” applies, allowing the claim to proceed since Petitioner obtained incompetent legal service and misrepresentation from attorneys who endeavored fraudulent machinations to have Petitioner’s case dismissed with prejudice by failing to timely file the needed court documents. There is misrepresentation and fraud from opposing attorneys Todd and Zinober, adding a disability claim to Petitioner’s EEOC charge, **Exhibit 9**, although it clearly show that Petitioner only filed a FMLA claim, Transcript Doc. 49-1, page 24, **Exhibit 12**, questioning the Court that the “disability box” was not marked, thereafter proceeded to add the disability claim. Todd and Zinober thereafter alleged Petitioner’s complaints were already time-barred after the 4-year statute of limitations had lapsed. This fraudulent machinations were orchestrated to have Petitioner’s complaints dismissed with prejudice after alleging Petitioner’s knowledge of the injury before retiring in 2014 and seeking treatment in 2015. These were accomplished without documentation from Petitioner nor her treating physician, but the Court ruled Petitioner had permanent injury, Orders Doc. 43 and 50 **Exhibit 2**.

Petitioner filed a Third Amended Complaint, **Exhibit 5-B**, alleging Respondents violated 42 U.S.C. § 1983, the Equal Pay Act, and the Equal Protection Clause in the U.S. District Court which dismissed her claims as time-barred after the 4-year statute of limitation passed on the disability claim after counsel erroneously claimed Petitioner sought treatment in 2015 following retirement in 2014 without proof from a treating physician. Both equal pay and permanent disability claim were declared time-barred, **Exhibit 2**, Order Doc. 43 and 50. Hayes filed the Third Amended Complaint, **Exhibit 5-B**, alleging equal pay clause and permanent disability claim although he knew of prior dismissal. Petitioner relied on Mr. Hayes’ advice that filing of an equal pay claim would be the only remedy to get the case back in court. Hayes incorporated an equal pay claim despite knowledge that it was fatal to Petitioner’s cause, resulting to the dismissal of the Second Amended Complaint **Exhibit 5-A**. Prior to both filings, Mr. Hayes failed to include all of Petitioner’s claims filed with the EEOC. Hayes’ advice was not in the best interest of Petitioner as it constituted fraud which turned out to be detrimental to her cause.

The U.S. District Court erred in dismissing Petitioner’s claims, denying her First and Second Motion For Relief From Judgment Doc. 63 and 81. Petitioner contends that equitable tolling be applied in furtherance of fairness and equity, that her claims should be allowed to proceed, since Petitioner’s actions/inactions were from her reliance on perceived expertise and competence of her attorneys, *see emails* with

Del E'toile, Exhibit 13 emails with Hayes Exhibit 19, with Petitioner advising the filing of the equal pay claim, Doc. 5-G, Exhibit 5-A and 5-B, thinking both will bring Petitioner's best interests forward. Another pertinent question is whether Petitioner's complaints against Respondents may be dismissed with prejudice for the alleged non-existing permanent injury fraudulently added by counsel. The court failed to acknowledge that Petitioner filed an FMLA claim on her EEOC charge where the "disability box" was never marked.

The Due Process Clause of the Fifth Amendment prohibits the deprivation of any person of property without "due process of law". Individuals whose due process rights are at stake are entitled to "notice and an opportunity to be heard," *United States v. James Daniel Good Real Property*, 510 U.S. 43, 48 (1993). This case hinges not only on violations of Due Process, but also on Stare Decisis according to precedent. The Court of Appeals abused its discretion in adjudicating this case, resulting to the deprivation of Petitioner's right to be heard without adherence to reason, fairness, and equity. In the Middle District Court, documents were exchanged between attorneys without transparency or Petitioner's full knowledge of its consent.

The Middle District Court dismissed Petitioner's complaints with prejudice, partly based on the Equal Pay claim that Hayes filed despite knowledge that the statute of limitations had passed, together with the fraudulent disability claim that attorneys Todd, Zinober and Del E'toile added at the July 23, 2018 hearing in State Court to favor Respondents. The Court failed to realize that an FMLA claim was instead filed which does not time-bar. Attorneys Todd and Zinober mislead Judge Foster when they filed documents prior to the hearing, Todd, Doc.1-2, pages 77 to 84, page ID 87 to 94, (on page 82, Page ID 92, Exhibit 10, filed and signed May 15, 2018) and Zinober Doc.1-2, pages 61 to 70, Page ID 71 to 80, (on page 68 page ID 78), Exhibit 11, filed and signed May 10, 2018, both categorically alleging Petitioner did not file any disability claim with the EEOC nor alleged any disability claim with FHRC, *Transcript* Doc. 49-1, of the July 23, 2018 hearing, Exhibit 12, they first alleged that Petitioner filed a FMLA claim, then added the disability claim. Petitioner had no knowledge that attorneys added a disability claim, and relied on her attorneys thinking it was the FMLA claim being referred to in reference to the back FMLA pay and not a disability claim. Attorneys Todd and Zinober with Del E'toile agreeing, fraudulently added the ADA Disability claim to the EEOC charge. Petitioner had good faith belief that the attorneys knew or should have known that only Petitioner can amend her EEOC charge by filing an amended complaint or a new EEOC charge. Todd and Zinober knew more than 3 years had passed after the November 19, 2014 EEOC charge's conclusion/dismissal.

The Middle District Court's Orders were based on the disability claim that Todd, Zinober, and Del E'toile added without Petitioner's instruction. The Court failed to recognize common law fraud, and that FMLA claims does not time-bar. The court entered Orders, Doc. 43, and 50 Exhibit 2, ruling that Petitioner's permanent disability was alleged in the absence of her physician's medical certification proving

Petitioner sought medical treatment and care for said disability, fraudulently added by all attorneys who failed to raise Petitioner filed an FMLA claim to favor Respondents. Mr. Hayes emails, **Exhibit 19**, Doc's.13-A, to 13-J, shows he confederated and conspired with County's attorneys, Todd, Zinober and Lehman.

Petitioner filed multiple Motions for Relief from Judgment and Reconsideration to remedy the fraudulent machinations by the attorneys. Unfortunately, all were denied by the District Court ruling the "case has been closed and shall remain closed for being time-barred". The Court of Appeals affirmed this decision alleging Petitioner failed to show abuse of discretion by the lower court. Petitioner disagrees and will demonstrate why this ruling was incorrectly applied, violates the First and Fifth Amendments, and Stare Decisis.

I. THE COURT OF APPEALS ERRED IN UPHOLDING THE LOWER COURTS' DISMISSAL OF PETITIONER'S CLAIMS AS TIME-BARRED. EQUITABLE TOLLING SHOULD BE APPLIED, ALLOWING THE CLAIM TO PROCEED BASED ON PRECEDENT ESTABLISHED BY THE U.S. SUPREME COURT AND THE ELEVENTH CIRCUIT'S OWN.

The decision of the Court of Appeals states, Petitioner filed an EEOC discrimination complaint however, no EEOC administrative complaint was filed. Petitioner relied on attorneys' advice, with fear that the same will again fall into deaf ears, as the Commission did, with all her previous EEOC complaints, see email from Attorney Antonio Poulos, **Exhibit 22**. Petitioner's email with Mr. Hayes, and Del E'toile, **Exhibit 19** and 13 shows that she was under the misapprehension that counsel is an expert and competent to move her cause forward with her best interests at hand since Petitioner's cause arose from unfair and discriminatory dealings by the Respondents predicated on gender, age, race, retaliation equal pay, and availing of the FMLA.

The Court of Appeals erred in contending Petitioner filed her notice of appeal February 4, 2020. Petitioner believes someone altered Petitioner's Notice of Appeal and squeezed in line 5, entered incorrect dates of orders and changed the second page of the Certificate of Service showing the date and to whom the Motion to Amended Notice of Appeal, Doc 85, **Exhibit 20** was served. Petitioner filed her Notice of Appeal on February 3, 2020 , Doc. 83, **Exhibit 21**, paying the \$505.00 filing fee that same day, Receipt **Exhibit 21-A**, Petitioner Credit Card Statement in the amount of \$505.00, transaction February 3, 2020 to FLMDC **Exhibit 21-B**.

Petitioner diligently pursued the issue with what she believed was timely done, relying on her attorneys. When Petitioner started litigating her case pro se, it cannot be said she was no longer as diligent. Less can be expected from a mere lay person, lacking training, education, and understanding of what the Rule of Procedures entails. The Court has to take judicial notice that pro se litigants litigate their claims for not being able to afford private counsel. This is the ill effect of previously paying good money in hiring more than three attorneys believing that Petitioner has hired expert and competent attorneys, sadly, it wasn't the case. Hence, a little extra

consideration should be afforded to Petitioner in conformity with the truism that "Those who have less in life should have more in law."

Petitioner's emails with her previous attorneys show she has diligently and consistently pursued her case, *see Emails with attorneys, Del E'toile, Hayes, and Craig Berman, Exhibit 19, 13 and 17.* Petitioner's reliance on perceived competency of attorneys ultimately failed her, causing her claims' dismissal with prejudice. Petitioner contends that, only when a lawyer can bring together technical and performance skills to achieve a satisfactory work product or service which can reasonably meet client's expectations that one can be said to be competent. Petitioner was let down by her attorneys for failing to comply with the timeliness requirement of the Court and instead pursued fraudulent machinations detrimental to Petitioner.

The State Court and U.S. District Court erred in dismissing her Section 1983, the Equal Pay Act and Title VII claims as being time-barred for having been filed in excess of 4 and 3 years respectively. This statute of limitations is subject to equitable tolling with the factors considered by a court in deciding as described in the case laws set out below:¹ *A "petitioner" is "entitled to equitable tolling" if he shows "(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstances stood in his way" and prevented timely filing. Pace vs. DiGuglielmo, 544 U.S. 408, 418, 125 S.Ct. 1807, 171 L.Ed.2d 669. Courts must exercise [their] equity powers...on a case-by-case basis, "Battett v. Bullitt, 377 U.S. 360, 375, 85 S.Ct. 1316, 12 L.Ed.2d 377 avoiding "mechanical rules," Holmberg v. Armbrecht, 327 U.S. 392, 396, 66 S.Ct. 582, 90 L.Ed. 743 in order to relieve hardship... arising from a hard and fast adherence" to more absolute legal rules, Hazel-Atlas Glass Co. v. Hatford-Empire Col., 433 U.S. 238, 248, 64 S.Ct. 997, 88 L.Ed. 1250. The court recognizes cases that equity courts can and do draw upon decisions made in other similar cases for guidance, exercising judgment in light of precedent, but with awareness of the fact that specific circumstances, often hard to predict, could warrant special treatment in an appropriate case.*

A plaintiff is "entitled to equitable tolling only if [s]he shows (1) that [s]he has been pursuing her rights diligently, and some extraordinary circumstances stood in [her] way and prevented timely filing". Holland v. Florida, 560 U.S. 631, 130 S.Ct. 2549, 177 L.Ed.2d 130 (2010). Equitable tolling is appropriate since Petitioner's actions or her inactions, was a result of her reliance on her perception that her attorneys are experts, competent, and acting on her best interest.

II. THE COURT OF APPEALS ERRED IN DENYING PETITIONER'S REVIEW DE NOVO.

The Eleventh Circuit ruled that it does not review abuse-of discretion claims "merely couched in constitutional language" or constitutional claims that are not colorable. The case of Arias v. U.S. Att'y Gen., 482 F.3d 1281, 1284 (11th Cir. 2007), provides that *"For a constitutional claim to be colorable, the alleged violation need*

¹ The petitioner cites the additional case law under the "Reasons for Allowance of the Writ" section.

not be substantial, but the claim must have some possible validity." *Id.* at 1284 n. 2 (quotation marks omitted). *See: Jaen-Chavez v. U.S. Attorney General*, 415 F. App'x 964, 967 (11th Cir. 2011).

Petitioner's contends that it's clear by virtue of the Circuit's own precedent that that it is bounden with an obligation to have the case be reviewed de novo as Petitioner has a *prima facie* case against the Respondents.

III. CAN A PRO SE LITIGANT BE PENALIZED FOR THE MISREPRESENTATION AND INCOMPETENCY OF ATTORNEYS.

No. Rule 4-1.1 of the Florida Bar addresses a lawyer's duty of competence who is obligated to provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary of the representation. Petitioner contends that Mr. Hayes, Del E'toile and Berman failed to provide these identified standards to the Petitioner.

IV. DOES THE DENIAL OF A LONG-TERM COMPETENT EMPLOYEE OF A WELL-DESERVED PROMOTION IN FAVOR OF ONE WHO IS RELATIVELY NEW AND/OR LESS QUALIFIED, JUSTIFIES DISCRIMINATION/PREFERENCE WITH REGARD TO GENDER, AGE, RACE, RETALIATION, EQUAL PAY AND AVAILING OF THE FMLA, ETC.

No. The Florida Civil Human Rights Act makes it illegal for an employer to discriminate on the basis of race, color, religion, sex, national origin, age, retaliation, FMLA claim and handicap among others.

A. Attorneys Misrepresentation

The negligence of attorneys failing to timely file court documents, adding the equal pay clause when it should have not been included, allowing it to prescribe and failing to recognize Petitioner filed an FMLA claim with the EEOC rather than a ADA disability claim, caused this case to be decided in favor of Respondents. The Court failed to recognize the fraudulent machinations by attorneys through confederating and conspiring with each other, to throw Petitioner's complaints against Respondents, *see* Petitioner's Brief Exhibit 15 and Petition for Rehearing Exhibit 16.

Petitioner's original complaint was denied and the case was litigated under 28 U.S.C. § 1983. Petitioner's Brief to the Court of Appeals argued that due to the significant errors made by her attorneys, she should have been eligible for equitable tolling. The Court of Appeals disagreed stating that "*The first argument Petitioner raises before us is that the district court erred in ruling that her third amended complaint was time-barred in the first place. She argues that the district court should have equitably tolled she did not file a disability claim she filed FMLA claims with the EEOC.* The 4-year statutes of limitations does not apply to FMLA claims as it's not time-barred. Petitioner contends that the "negligent acts", fraud and misrepresentations by Respondents and Petitioner's attorneys constituted "extraordinary circumstances" after a disability claim was added without Petitioner's

consensus nor being filed with the EEOC and investigated by an EEOC representative.

The Complaints were dismissed with prejudice and Petitioner denies filing any disability claim with the EEOC, instead she filed an FMLA claim with Order Doc. 43 and 50 entered without proof of disability from Petitioner or her attending physician, providing information whether she sought treatment, and when treatment commenced as Petitioner was not receiving any treatment from any doctor for any injury. These claims are based on fraud of a disability which Petitioner never had nor included on her EEOC charge.

The decision from the Eleventh Circuit Court of Appeals held that a *“petitioner” is “entitled to equitable tolling” only if he shows “(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way” and prevented timely filing. Pace, 544 U.S., at 418, 125 S.Ct. 1807 (emphasis deleted). In this case, the “extraordinary circumstances” at issue involve an attorney’s failure to satisfy professional standards of care on the part of the Petitioner’s counsels and fraudulent machinations on the part of the opposing counsel. The Court of Appeals held that, where that is so, even attorney conduct that is “grossly negligent” can never warrant tolling absent “bad faith, dishonesty, divided loyalty, mental impairment or so forth on the lawyer’s part.” 539 F.3d, at 1339. But in our view, the Court of Appeals’ standard is too rigid. Holland v. Florida, 560 U.S. 631, 649 (2010).*

The issue here is one where the Circuit Court contradicts the U.S. Supreme Court in deciding who gets equitable tolling in their case. Petitioner meets the requirements needed for entitlement of equitable tolling. Petitioner acknowledges the well-established principle that ignorance of the law is not a standard for tolling in a section 1983 case, but what we have here is not Petitioner’s ignorance of the law, but her reliance upon the competence of her attorneys. The attorneys’ mishandling of the case qualifies Petitioner for equitable tolling standard as it cannot be logically reasoned out, that as a lay person, Petitioner is expected to be knowledgeable of the Rules of Procedure and its intricacies.

The Holland case involves the equitable tolling of a non-jurisdictional case; a 2254 petition, however the same rules apply to a jurisdictional appeal. The Court of Appeals ruled Petitioner showed no abuse of discretion by the District Court, but the holdings of this Court show differently. Stare Decisis which is the legal principle of determining points in litigation according to precedent should have been applied by the Court of Appeals and the District Court in deciding the claims. The doctrine was not applied and as a result, violated Petitioner’s Fifth Amendment’s Due Process Clause, and the First Amendment’s right to redress the government of grievances. Petitioner’s 60(b) motion was proper and should have been heard according with established judicial precedent.

B. Violations of the Fifth and First Amendment

Due process of law is a flexible constitutional principle requiring upon governmental actions varying with the situations to which it applies. As the Court previously has recognized, "not all situations calling for procedural safeguards call for the same kind of procedure." *Morrissey v. Brewer*, *supra*, at 481. See also *Greenholtz v. Nebraska Penal Inmates*, 442 U.S. 1, 12 (1979); *Mathews v. Eldridge*, 424 U.S. at 324; *Cafeteria Workers v. McElroy*, 367 U.S. 886, 895 (1961). The adequacy of a scheme of procedural protections cannot be determined merely by the application of general principles unrelated to the peculiarities of the case. Petitioner's circumstances are peculiar since she solely relied in her perceived competence of her attorneys, leading to the deprivation of her Constitutional safeguards sanctioned by the Fifth and First Amendment.

Given this flexibility, it is obvious that a proper due process inquiry cannot be made by focusing upon one narrow provision of the challenged statutory scheme. Such a focus threatens to overlook factors which may introduce constitutionally adequate protections into a particular government action. Courts must examine all procedural protections offered and must assess the cumulative effect of such safeguards. Courts must consider "the fairness and reliability of the existing procedures" before holding that the Constitution requires more. *Mathews v. Eldridge*, *supra*, at 343. Only through such a broad inquiry may courts determine whether a challenged governmental action satisfies the due process requirement of "fundamental fairness." In some instances, the Court has even looked to nonprocedural restraints on official action in determining whether the deprivation of a protected interest was affected without due process of law. *E. G. Ingraham v. Wright*, 430 U.S. 651 (1977). See: *Santosky v. Kramer*, 455 U.S. 745, 774-76 (1982).

The First Amendment guarantees "the right of the people . . . to petition the Government for a redress of grievances." The right to petition is cut from the same cloth as the other guarantees of that Amendment and is an assurance of a particular freedom of expression. In *United States v. Cruikshank*, 92 U.S. 542 (1876), the Court declared that this right is implicit in "[t]he very idea of government, republican in form." *Id.*, at 552. And James Madison made clear in the congressional debate on the proposed amendment that people "may communicate their will" through direct petitions to the legislature and government officials².

The historical roots of the Equal Protection Clause long antedate the Constitution. In 1689, the Bill of Rights exacted of William and Mary stated: "[I]t is the Right of the Subjects to petition the King." 1 Wm. Mary, Sess. 2, ch. 2. This idea reappeared in the Colonies when the Stamp Act Congress of 1765 included a right to petition the King and Parliament in its Declaration of Rights and Grievances. See 1 B. Schwartz, *The Bill of Rights—A Documentary History* 198 (1971). Likewise, the Declarations of Rights enacted by many state conventions contained a right to

² 1 Annals of Cong. 738(1789)

petition for redress of grievances. See, e. g., Pennsylvania Declaration of Rights (1776). See: McDonald v. Smith, 472 U.S. 479, 482-83 (1985).

C. The Middle District Court, and the Eleventh Circuit Court Abused its Discretion by Failing to Properly Review the Record of the Case and Mishandling Petitioner's Files Submitted in Support thereof.

The Middle District Court erred and caused irreparable damage and domino effect against Petitioner by falsely alleging that prior to her case transfer to its jurisdiction, there was no hearing. A hearing in State Court was conducted on July 23, 2018, *see Transcript 49-1, Exhibit 12*. The Court failed to mail a copy of the documents transmitted to the Court of Appeals to Petitioner. The Middle District Court granted a Motion For Extension Of Time, *Exhibit 14*, Doc. 44, for attorney Hayes to request the Transcript of the July 23, 2018 hearing, by an endorsed Order Doc. 45 that Pacer won't allow Petitioner to Print to attach. The Court's transmittal sheet Doc. 84, page 1 of 32, page ID 1140 to 1171, *Exhibit 23*, to the Court Of Appeals stated Petitioner failed to pay the filing fee, *see receipt* amounting to \$505.00 *Exhibit 21-A*, using Petitioner's credit card, stating "Payment for the Notice Of Appeal" February 3, 2020, *Exhibit 21-B*, copy of credit card statement showing payment to the FLMDC.

Since both the District and Circuit Court denied Petitioner's complaints, amendments, and subsequent Rule 60(b) motion, has clearly deprived Petitioner of her First Amendment right to redress the County and the Board. This sets an unfavorable precedent and paves the way for more such violations of Due Process and redress rights by other courts both state and federal. It will absolutely result in a fundamental miscarriage of justice if permitted to stand.

ERRORS OF THE LOWER COURT

Errors of the State Court

1. Before the State Court hearing, Petitioner never filed a disability claim. It was only added by attorneys Todd and Zinober during the July 23, 2018 hearing with attorney Del E'toile failing to oppose the contention and alleging that FMLA claim is proper. The State Court failed to verify the addendum with EEOC Charge 511-2014-01711 *Exhibit 9*.
2. The State Court granted Respondent's Motion to Dismiss Petitioner's Amended Complaints on jurisdictional grounds based on fraud. This was a grave error pursuant to *Hammer v. Hillsborough County*, 927 F. Supp. 1540 (M.D. Fla. 1996), *Exhibit 18*, Doc. 1-2, page 116 to 123, confirming that the County and the Board are not separate entities, as Zinober contends otherwise, Transcript Doc. 49-1, *Exhibit 12*. The court failed to recognize common law fraud when the attorneys incorporated a disability claim without consensus from the Petitioner or from the EEOC representative, *EEOC Complaint Procedure*, *Exhibit 29*. The Civil Service Board Complaint should have not been dismissed for

reason that it is a "separate entity" from the County with Mr. Del'Etoile failing to object on the allegation made by Zinober causing the Fraudulent Order Exhibit 3 granting the Board's Motion to Dismiss the Amended Complaint with Prejudice, Zinober submitted for Judge Foster's signature who stated "as to the Board that's dismissed" which Gretchen Lehman resubmitted to the Middle District Court. The Board's complaint was dismissed not with prejudice, Transcript **Exhibit 12**, page 18, line 10.

Errors of the Middle District Court

1. It is an error on the part of the Court in dismissing Petitioner's Section 1983 claim as time-barred, having been filed after 4 years following cessation of employment where Petitioner allegedly sought medical treatment in 2015 after she retired in 2014 for the fraudulently added disability claim at the July 23, 2018 hearing. Petitioner's EEOC Charge clearly shows she filed a FMLA claim and the court failed to verify the charge and the Order was entered without documentation from Petitioner's physician confirming the permanent disability. It is likewise an error for the Court to dismiss the Equal Pay Act claim as time-barred as it was filed in excess of 3 years. The Court failed to consider that Petitioner is pro se who has undergone circumstances beyond her control resulting from her reliance on her attorneys. Petitioner is one to whom the Court can find application of "Equitable Tolling" in the interests of fairness and equity.
2. It is an error to dismiss Petitioner's claims with prejudice and denying the Motion to Vacate Judgment or Order, Rule 60(b), **Exhibit 31**. Rules of Procedure may be set aside by the courts in furtherance of its mandate to ensure that the ends of justice is secured for the protection of the oppressed.
3. Judge Covington's denial of Petitioner's Motion for Relief from Judgment under Rule 60(b), **Exhibit 2**, Doc. 82 on December 27, 2019 is an error for the Court. Petitioner being a lay person cannot be logically expected to be knowledgeable, and much more comprehend adherence to the otherwise stringent Rules of Procedure. Being pro se without any legal background, the court shall make its rules flexible for these technical Rules of Procedures were not designed to sanction or punish non-adherence but in furtherance of equity and fair-play.
4. The January 13, 2020 denial of Petitioner's Motion for Reconsideration is an error as Judge Covington failed to recognized that Petitioner is litigating pro se who was previously provided with incompetent service by her attorneys, justifying "Equitable Tolling" to find application.

5. Judge Covington's resolution of Petitioner's Motion for Clarification dated January 24, 2020 was erroneous for failing to consider that Petitioner is pro se, adjudicating that Petitioner "has no pending claims before the court that she can litigate and that the case is closed and shall remain closed."
6. The denial of the Second Motion for Reconsideration for lack of merit and being frivolous, stating further that the "Petitioner must refrain from filing motions for relief from judgment or motions for reconsiderations" is error on the part of Judge Covington. Petitioner is entitled for any equitable relief sanctioned by law. The court likewise erred in ruling Petitioner's Motion for Relief from Judgment Doc. 81, **Exhibit 37**, as frivolous and bereft of merit Order Doc. 82 **Exhibit 2**, as the same was filed duly supported by evidentiary documents, *see* Petitioner's Brief and Petition for Rehearing.
7. The Court erred when it dismissed Petitioner's Motion for Relief from Judgment under Rule 60(b), **Exhibit 37**.
8. Petitioner noticed in the Middle District Court documents Doc. 84, transmitted to Appeals court that all 32 pages show it was filed February 4, 2020, page ID 1140 to 1171, **Exhibit 23**, On page 32, page ID 1171 of the docket sheets show that Petitioner filed her Notice Of Appeal February 3, 2020 as Doc. 83, fee not paid, Petitioner receipt Exhibit 21-A, Petitioner Credit Card Statement showing February 3, 2020 payment to the FLMDC **Exhibits 21-B**. Petitioner date stamped Notice of Appeal filed February 3, 2020, **Exhibit 21**.

On Middle District Court Docket sheet [2] printed from PACER **Exhibit 26**, it show Doc. 85 as a Notice Of Appeal filed February 4, 2020, entered February 5, 2020, that the USCA Appeal Fees were paid February 10, 2020, *see* **Exhibit 21-A** and **21-B**.

There is an altered Motion to Amend Notice of Appeal as someone altered Petitioner's Notice of Appeal and squeezed in line five with the incorrect dates of orders, changed the Certificate of Service date to February 4, 2020, changed who the document was emailed to, and filed it on February 4, 2020 as a second document Doc. 85, as shown on docket sheet [2] as a Notice Of Appeal, **Exhibit 26**. Again, there is no Notice of Appeal identified as Document number 85, as shown on docket sheet (2).

On Docket sheet [3] printed from PACER, **Exhibit 27**, show that an Amended Notice of Appeal was filed February 4, 2020, as Doc. 85, entered February 5, 2020, and that the fees were paid in the amount of

\$505. Receipt number TPA059879, re 85, Notice Of appeal filed by Jacquelyn Bouazizi (ARC) entered: 02/10/2020.

9. Petitioner receipt number TPA059879, **Exhibit 21-A**, for payment of the filing fee dated February 3, 2020 is the same receipt number allegedly paid February 10, 2020. Petitioner believes someone wanted to ensure that it appears Petitioner filed her Notice of Appeal late on February 4, 2020, with the filing fee unpaid February 3, 2020.

The court has alleged three named documents with the Document number 85, a Notice of Appeal filed February 4, 2020 entered February 5, 2020, Motion To Amend Notice Of Appeal, filed February 4, 2020, and an Amended Notice Of Appeal filed February 4, 2020. The date stamped altered Motion To Amend Notice Of Appeal does not show on the last page of **Exhibit 23**, page 32, page ID 1171, the docket sheet transmitted to appeals court; it does not show on docket sheet (2) **Exhibit 26**, or docket sheet (3) **Exhibit 27**, as Doc. 85.

The Middle District Court erred by alleging when Petitioner filed her Notice of Appeal, on February 3, 2020, page 1 of 32, page ID 1140, that the corresponding fee of \$505.00, was not paid **Exhibit 21-A**, and that no hearing from which a transcript can be made although a hearing was held July 23, 2018. This is a material error as the Court questioned in its decision when Order Doc. 69 was signed, on December 27, 2019 which must have been set in the interoffice mail as it was after Christmas holiday. The postal envelope was stamp December 30, 2019, **Exhibit 38**. January 1, 2020 was a holiday and the document was received by Petitioner January 2, 2020, on Sunday the Federal Clerks Office is closed. See attached invoice showing that \$505.00 was paid to payee "FLMD CLERK US DISTRICT CT" dated February 3, 2020, **Exhibit 21-A**, using Petitioner's credit card **Exhibit 21-B**. This is a material question on the January 29, 2021 decision of the Court of Appeals which alleged Petitioner didn't pay the \$505.00 court fees when she filed her Notice of Appeal on February 4, 2020, although it was filed February 3, 2020.

Errors of the Eleventh Circuit Court of Appeals

1. While the Court of Appeals correctly cited the grounds entitling for equitable tolling, it failed to account that Petitioner was prevented a timely filing because of her reliance on her perceived expertise and competency of her attorneys Berman, Del E'toile, and Hayes. Petitioner cannot be faulted as in the ordinary course of life, any lay person will rely on his/her attorneys' expertise and competence.

2. The Court of Appeals made an error in ruling Petitioner has not shown that the district court abused its discretion. Petitioner contends that the application of "Equitable Tolling" is discretionary on the court. When the circumstances of the litigant warrants its application, the court has a bounden duty to apply it. Petitioner's incurred delay is directly attributable on her reliance on her attorneys, thinking they had her best interest.
3. The Court of Appeals erred in ruling that "*newly discovered evidence* is the theory which is a legal argument and cannot be raised under Rule 60(b)(2), Exhibit 1. Both Orders were dismissed based on a fraudulent disability claim alleging Petitioner had permanent disability injury and she sought treatment in 2015 after retiring in 2014. To reiterate, Petitioner has relied on her attorneys' perceived expertise and competence. If Petitioner could amend her EEOC complaint in order to rectify the fraudulent machinations of attorneys Todd and Zinober, she could have done it. Petitioner contends that while FMLA cannot be raised under Rule 60, however fraud resulting to the adding of a disability claim by counsel can be raised under Rule 60(b). Petitioner's research made her realized the legal argument should have been included to qualify it as newly discovered evidence, at least in Petitioner's perspective.
4. The Court of Appeals erred in ruling Petitioner's claims against attorneys were merely conclusory failing to show clear and convincing evidence. Supreme Court opined in *Colorado v. New Mexico*, 467 U.S. 310 (1984), "*clear and convincing*" means that the evidence is highly and substantially more likely to be true than untrue; the fact finder must be convinced that the contention is highly probable. Petitioner contends previous counsel failed to comply with timeliness requirement in filing her claim and the County attorneys filed a disability claim on Petitioner's behalf on July 23, 2018 without consultation from Petitioner or the EEOC, later proving to be fatal on Petitioner's claims and tantamount to fraud. Petitioner reiterates that she's the only person to amend her EEOC charge as provided by the complaint processing procedure stating a Complainant may amend a pending complaint before the conclusion/dismissal of the EEOC charge, Exhibit 29, EEOC procedures, page 3. Attorneys Todd and Zinober cannot amend the same without Petitioner's consensus. Furthermore, Todd and Zinober added the disability claim more than 3 years after its dismissal on November 19, 2014 which constituted fraud, only to later use to have Petitioner's complaints against the Respondents dismissed with prejudice, Order Doc. 43 and 50, Exhibit 2.
5. The Court of Appeals erred in ruling, Petitioner's claim against counsel fail from the start as even if they made misrepresentations, they are not

"opposing party". Attorneys in Florida are to conduct their profession according to the ethical rules of the Florida Bar. Misrepresentation to a client to whom an attorney has duty to exercise good faith, fairness and candor, is a violation of these tenets.

6. The Court of Appeals erred in ruling Petitioner failed to timely file her CIP as shown on docket sheet (4), **Exhibit 28**. Petitioner timely filed her CIP on March 18, 2020 **Exhibit 32**, and wishes the court to exercise diligence to ensure parties are afforded timely relief. The second CIP **Exhibit 33**, enumerated all interested parties. The court alleged they mailed Petitioner a letter dated February 19, 2020 which Petitioner never received, only to have someone write on the letter mailed on February 24, 2020 the exact CIP alleging Petitioner's submission had a deficiency, **Exhibit 32** *see* Court of Appeals Docket sheet, **Exhibit 28**, at February 19, 2020.
7. The Court of Appeals erred in its January 29, 2021 Order, **Exhibit 1** alleging Petitioner failed to include for review Doc. 10-3, filed March 25, 2019, page 2 and 3 page ID 762 and 763. The order was included in the documents and was filed after Doc. 41 as Doc. 42 in volume 2. Petitioner failed to file a separate copy of the order as Zinober filed the fraudulent order which was resubmitted to the court by attorney Lehman.
8. The Court of Appeals erred in dismissing the Petition for Rehearing with Petitioner receiving correspondence from the Court dated February 11, 2021, advising that Petition for Rehearing's last day of filing is March 19, 2021, **Exhibit 34**. Petitioner mailed the Petition March 18, 2021, **Exhibit 16** Petitioner Mailed the date stamped Notice of Appeal "March 19, 2021" (Friday) **Exhibit 36**, by priority mail, receipt **Exhibit 36-A**, with the Court scheduled to receive the same by Monday, March 22, 2021. The stamped Notice of Appeal dated February 3, 2020 shows its filing date, however the Court questioned it by stating it was filed February 4, 2020 in its January 29, 2021 decision. Again, the filing was timely done within the allowed extension until March 19, 2020 **Exhibit 34**, priority mail receipt.
9. The Court of Appeals erred when it failed to recognize that the added ADA disability claim by Todd, Zinober with Petitioner's attorney Del E'toile agreeing to the fraudulent machinations was designed to throw Petitioner's claims. This was accomplished by fraudulently adding to Petitioner's EEOC charge at the July 23, 2018 hearing although knowledgeable that Petitioner filed an FMLA claim. Attorneys Todd and Zinober's both filed documents to the court prior to the hearing, stating that Petitioner has never filed a disability claim with the EEOC, Todd Doc.1-2, page 77 to 84, page ID 87 to 94, signed May 15, 2018 **Exhibit 10**, and Zinober Doc.1-2, page 61 to 70, page ID 71 to 80, signed May 10,

2018 Exhibit 11, with the neglect of Petitioner's attorneys constituting fraud.

10. The Court of Appeals failed to rule that Petitioner attorneys Berman and Hayes failure to timely respond to two motions constituted fraud.
11. The Court of Appeals erred in its January 29, 2021 decision when it alleged Petitioner filed her Notice of Appeal February 4, 2020, as opposed to February 3, 2020 when the Notice of Appeal was filed and fee paid for \$505.00. Petitioner mailed a copy of the stamped dated Notice of Appeal on the last day of extension to file the Petition for Rehearing being Friday, March 19, 2020, with the court receiving it Monday, March 22, 2020, to be included in the Petition for Rehearing as proof when Petitioner filed the Notice of Appeal. The court erred when it denied that the date stamped Notice of Appeal was mailed on March 19, 2020 resulting to the denial of the Petition for Rehearing although timely received as shown on the date stamped (March 19, 2021) showing it was filed February 3, 2020, mailed March 19, 2020, **Exhibit 36**, priority mail receipt, confirming when Notice of Appeal was mailed.
12. The Court erred in denying the receipt of a timely filed Notice of Appeal dated February 3, 2020 with corresponding filing fee as alleged in its January 29, 2021 decision. Petitioner received the Court's letter dated March 25, 2021 stating that "NO ACTION WILL BE TAKEN", **Exhibit 36-B**. A motion to correct or amend Petition for Rehearing is needed to file a corrected or amended rehearing." Petitioner in error thought she had to file an Amended Petition For Rehearing, **Exhibit 36-C** not a Motion To Amend. Petitioner called Appeals Court and was advised she had to file a Motion To Amend Notice Of Appeal.
13. The Court's actions as alleged in Number 8, eventually caused Petitioner's Petition for Rehearing failure to move forward.
14. The Court failed to move forward with the Petition for Rehearing with the Notice of Appeal containing information as to when Petitioner filed the same, although it was timely mailed on March 19, 2021, the last day of extension as indicated on the priority mail receipt, **Exhibit 36-A**.
15. The Court erred when it advised Petitioner to file Motion to Correct or Amend Petition for Rehearing the next day, April 9, 2021 **Exhibit 41** which was then later denied by the court after failing to allow Petitioner to respond to the April 8th letter **Exhibit 42**. Petitioner filed a Motion for Review Courts File because the Court received her documents timely with Motion for Leave to File an Amended Petition, **Exhibit 35**, April 27, 2021. The court should have moved forward with the Petition for Rehearing which was timely filed on March 18, 2021. Petitioner received correspondence from the court advising judgment is issued as mandate

of the court and court's opinion was previously provided on April 19, 2021 ~~Exhibit 43~~ and that the case is closed on May 5, 2021 ~~Exhibit 44~~.

ERRORS OF ATTORNEYS

Errors of Petitioner's Attorneys

1. Attorneys Berman, Del E'toile and Hayes failed to provide services they were hired for and Petitioner relied on her perceived expertise and competence of her attorneys. Petitioner should not be faulted for giving her utmost reliance on her attorneys being an ordinary lay person who trusted her attorneys to comprehend the intricate Rules of Procedure, thereby making it inexcusable for them to file a claim after the lapse of the statute of limitations. Hayes committed fraud on the court by confederating and conspiring to throw Petitioner's complaints in favor of Respondents County and Board.
2. Attorneys Todd and Zinober with agreement from Petitioner's attorney Del E'toile committed fraud on the Court when they included disability claim without the consensus of Petitioner or permission of EEOC representative at the July 23, 2018 hearing. Only Petitioner is empowered to make changes on her EEOC charge either by amendment or a new charge, the action was fatal to Petitioner's claims. Todd and Zinober knew that more than 3 years had passed after the conclusion/dismissal of Petitioner's EEOC charge last November 19, 2014.
3. Upon Petitioner's learning the term "time tolled", she realized Zinober mislead the State Court when he alleged "the Court lacks subject matter jurisdiction", that the Civil Service Board is a separate entity from the County, to ensure Petitioner's complaints be dismissed with prejudice. Although the court dismissed the Boards Complaint without prejudice **Exhibit 3**. Hammer v. Hillsborough County, 927 F. Supp. 1540 (M.D. Fla 1996) **Exhibit 18**, Doc. 1-2 page 116 to 123, page ID 126 to 133, proves that the court had jurisdiction and that the County and the Board are not separate entities.
4. Attorneys Todd, Zinober and Lehman maliciously stated that Petitioner "knew or had reason to know" that whatever injury she had experienced occurred while she was employed with the County, to get Petitioner's complaints against the County and the Board be dismissed with prejudice, **Exhibit 2**, Doc. 43 and 50. The petitioner was not disabled nor did she have any injury to know when such occurred while employed by Respondent as Petitioner was out on FMLA.
5. Attorney Berman directly violated the court's order by failing to amend Petitioner's complaint twice as directed by Judge Foster, leaving the claims susceptible for dismissal. He also failed to respond to

Respondent's Motion to Dismiss, leaving it unanswered for approximately 10 months, causing unnecessary delay in litigating Petitioner's claims, see **Exhibit 17**.

6. Del E'toile failed to argue Petitioner filed a FMLA claim and not an ADA disability claim and which does not time-barred. Del E'toile misrepresented to Petitioner that although the argument is not included in the pleading, he will extensively argue it in court, but failed to argue Hammer v. Hillsborough County, **Exhibit 18**. When Petitioner tried to raise the issue in court, he raised his hand gesturing for Petitioner not to say anything regarding Respondent Board and jurisdiction. Email correspondence shows Mr. Del E'toile's admission for failure to object to the court's manifestation that the Board and County are not separate entities, **Exhibit 13** as Zinober contended during the July 23, 2018 hearing to get Petitioner's complaints dismissed, Transcript Doc. 49-1 **Exhibit 12**.
7. Del E'toile failed to argue Petitioner did not file an ADA disability claim but only an FMLA claim which was not imposed by the EEOC. This fraudulently added disability claim caused Petitioner's complaints against the Respondents be declared as time-barred and thereafter dismissed with prejudice.
8. Attorney Hayes erroneously prepared the Second and Third Amended Complaints by incorrectly stating Petitioner's causes of action and claims which was fatal to the Petitioner.
9. Attorney Hayes failed to follow Judge Covington's instruction in amending the Second and Third Complaints and failed to timely respond to Respondent's Motion to Dismiss, resulting in it to being unopposed thereby granting its dismissal and closing.
10. Attorney Hayes added in the Third Amended Complaint, Doc. 33, **Exhibit 5-B**, an Equal Pay claim although the statute of limitations had lapsed, and the Second Amended Complaint **Exhibit 5-A** and Del E'toile two Amended Complaints **Exhibit 5**, added the disability and lied that Petitioner alleged the manager said "she does not like black people." Petitioner never informed Del E'toile of that lie, he alleged that the Board and the County is the same when he knew the precedent of Hammer v. Hillsborough County.

Errors of Opposing Counsel

1. Attorneys Todd and Zinober committed fraud when they confederated with Del E'toile, and Hayes with their fraudulent machinations ensuring Petitioner's claims against Respondents are dismissed with prejudice by adding a disability claim on her EEOC charge. Berman was delayed in filing the needed court documents. The Second Amended

Complaint was dismissed because of the Equal Pay claim and Disability charge added on July 23, 2018 hearing which proved fatal to Petitioner's cause.

2. Petitioner reiterates that said representation was a lie, as Petitioner has not sought treatment after she retired in 2014 for a disability, let alone, a permanent disability as alleged in both Orders of dismissal with prejudice, Orders Doc. 43 and 50, **Exhibit 2**. Kindly see attached email correspondence from her attorney where Petitioner was specifically instructed by counsel to allege that she saw a doctor in 2015, **Exhibit 19**.
3. County Attorneys Todd and Zinober misrepresented Petitioner's claims information which mislead Judge Foster who ruled against Petitioner. Both attorneys failed to recognize that FMLA claims are not subject to a 4-year statute of limitations and does not time-barr.
4. Attorneys Todd, Zinober, Lehman and Hayes failed to inform Judge Covington that Petitioner filed an FMLA claim and not an ADA Disability claim which Judge Covington failing to verify the EEOC charge.
5. Todd, Zinober, Hayes, and Lehman, incorporated the disability claim alleging Petitioner sought treatment in 2015. The Federal EEOC Complaint Processing Procedures, page 3 **Exhibit 29** states, "A complainant may amend a formal complaint any time prior to the dismissal of the complaint or the conclusion of the investigation." Nothing in the language of said directive, empowers anyone except Petitioner to amend the complaint for her. Del E'toile agreed and allowed the opposing attorneys to add the disability claim by amending the Petitioner's EEOC charge at the July 23, 2018 hearing, more than 3 years following dismissal which constituted outright fraud.
6. Zinober alleged the FLMA claim on page 6 of Transcript, Doc. 49-1, **Exhibit 12**, of Hearing dated July 23, 2018 and disability claim on Page 14. Todd likewise alleged disability on page 21. Both confederated and conspired with Del E'toile who filed the FMLA and the Disability in the two Amended Complaints and Demand for Jury Trial. Del E'toile alleged that the Board and the County was the same, **Exhibit 5**, number 5 to throw Petitioner's complaints in favor of the Board and the County filed in the Middle District Court by Todd, Zinober, and Lehman alleging that Petitioner disability claim that Todd and Zinober added to Petitioner's EEOC charge at the July 23, 2018 hearing was time-barred and the 4-year statute of limitations had run, although they questioned the court why the disability box was not marked on page 24 of said Transcript Doc. 49-1, **Exhibit 12** after alleging that Petitioner filed an FMLA claim which is clearly shown by the record on Petitioner's EEOC charge 511-2014-01711, **Exhibit 9**.

7. Petitioner never filed any disability claim with the EEOC, kindly see attached EEOC-charge. Attorneys Todd and Zinober alleged in their documents prior to the hearing that Petitioner never filed a disability claim and confirmed during the hearing that the disability box was not marked on Petitioner's EEOC charge, **Exhibit 9**, Doc.1-2, page 75-76. Both started out at hearing with the FMLA claim which caused Judge Foster to be so confused.
8. Todd filed document Doc.1-2, page 77 to 84, page ID 87 to 94, **Exhibit 10**, alleging Petitioner never filed a disability claim and Zinober filed Doc. 1-2, page 61 to 70, page ID 71 to 80, **Exhibit 11**, alleging that Petitioner filed FMLA claim and not a disability claim, indicated on page 6 of the Transcript, **Exhibit 12**, documents filed prior to the July 23, 2018 hearing. Zinober alleges Petitioner filed a disability claim, Transcript page 14, and Todd alleged a disability discrimination on page 21 to 22, where there is no evidence on record suggesting that Petitioner has presented her claims to the state before filing the disability claim. Todd further alleges on page 22 of the Transcript line 17 and 18, Petitioner is time barred from presenting the disability discrimination claim. Petitioner reiterates she filed a FMLA claim.
9. Petitioner never alleged disability as it cannot be both that disability was the motivating factor as Del E'toile alleged on page 23 of the Transcript when the disability box was "not" marked on the EEOC charge **Exhibit 9** and disability is not mentioned on the EEOC charge form. Todd and Zinober alleged and admitted in **Exhibit 10** and **11** prior to the July 23, 2018 hearing that Petitioner never filed a disability as the same was "not" marked. Zinober alleged Petitioner filed FMLA on page 6 of Transcript **Exhibit 12** and that the Board was separate from the County. However, Hammer v. Hillsborough County proves that they are the same. All committed fraud including Hayes by alleging lies while under oath. Mr. Del E'toile confederated and conspired with Todd and Zinober in adding the disability claim which both used together with Lehman in the Middle District Court to ensure that Petitioner's complaints against Respondents be dismissed with prejudice based on fraud.

REASONS FOR THE ALLOWANCE OF THE WRIT

REVIEW IS WARRANTED BECAUSE BASIS EXISTS AND THERE IS OPPORTUNITY FOR THE U.S. SUPREME COURT IN EXPANDING EARLIER DECISIONS WHICH ESTABLISHES THE DOCTRINE OF EQUITABLE TOLLING IS TO BE APPLIED LIBERALLY IN REGARD TO PRO SE LITIGANTS AND PARTICULARLY SO IN SECTION 1983 EQUAL PAY ACT AND TITLE VII EMPLOYMENT DISCRIMINATION CLAIMS. THE ALLOWANCE OF THE WRIT WILL PROVIDE GUIDANCE FOR THE CIRCUITS ON THE ISSUE, IN PARTICULAR, THE ELEVENTH CIRCUIT, WHICH ALTHOUGH HAS RECOGNIZED THE BASIC CONCEPT, BUT NONETHELESS RELUCTANT TO FOLLOW THE TREND ESTABLISHED BY THE U.S. COURT AND EVEN ITS OWN PRECEDENT, AS DEMONSTRATED IN ITS DECISION IN THIS CASE, IN APPLYING THE CONCEPT BROAD ENOUGH TO COVER PETITIONER'S SITUATION. THIS CASE PROVIDES OPPORTUNITY FOR THE U.S. SUPREME COURT TO ADDRESS AND ENFORCE THE APPLICATION OF THE CONCEPT.

CONCLUSION

Certiorari is warranted to further define the nature of the expanded scope of the "Doctrine of Equitable Tolling" specifically within the context of cases involving pro se parties in Title VII litigation, who exercised diligence but under a mistaken belief as to the procedures and timeframes, in which reliance was bestowed upon previously hired attorneys on perceived expertise and competency. Further, certiorari is warranted to determine the extent to which Respondents' discrimination on the basis of gender, age, race, retaliation, equal pay, and FMLA claim, against Petitioner relates to the denial of the latter's benefits.

For the foregoing reasons, Petitioner Bouazizi respectfully requests this Court issue a Writ of Certiorari to review the judgement of the Eleventh Circuit Court of Appeals.

DATED this 26th day of August 2021

Respectfully submitted,



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